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Before the
**Federal Communications Commission**
Washington, D.C. 20554

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| In the Matter of | ) | |
| | ) | CC Docket No. 99-200 |
| Numbering Resource Optimization | ) | |

**Motion of the Association for Local Telecommunications Services to Accept Comments filed One Day Late**

The Association for Local Telecommunications Services ("ALTS") moves that the Commission accept the attached comments in CC Docket 99-200 one day late. ALTS was prepared to timely file its comments on Friday afternoon, July 30, 1999, but due to an unforeseen computer glitch was unable to file them by the filing deadline. ALTS seeks to file its comments on the morning of the next business day, August 2, 1999.

The replies in this docket are not due until August 30, 1999, so that no interested party could conceivably be harmed by the grant of this motion.

For the foregoing reasons, ALTS moves that the Commission accept its comments in the above-referenced proceeding.

Respectfully submitted

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## COMMENTS OF THE ASSOCIATION FOR LOCAL TELECOMMUNICATIONS SERVICES

The Association for Local
Telecommunications Services

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August 2, 1999

## Summary

The members of ALTS are in full support of the number optimization goals that are at heart of the NPRM. As new entrant local exchange carriers, ALTS members are substantially and adversely affected by the recent epidemic of area code exhaust, jeopardy, and lottery situations occurring throughout the nation. The impact on CLECs is profound and fundamental -- frequently in recent years CLECs have found themselves unable to implement basic market entry plans due to a lack of numbering resources in an area. In addition, CLECs share the concern of all industry players about the enormous cost and effort that would be associated with expansion of the 10-digit North American Numbering Plan ("NANP"). Therefore, the members of ALTS support and urge the Commission to take reasonable, competitively neutral actions to implement number optimization measures.

The FCC has clear responsibility and jurisdictional authority, under Section 251(e)(1) of the Telecommunications Act of 1996 to identify and implement national policies to optimize numbering resources. The problems of number utilization are not local in nature, they are inherent to the national number administration system, and therefore can not be resolved as state or local issues. Devolution of the FCC's authority over number administration matters would not serve the public interest, but would delay and fragment implementation of number optimization solutions. At the same time ALTS firmly

believes that the most efficient and reasonable course is for the Commission to adopt general rules and leave the detailed implementation guidelines to industry groups such as NANC that can more readily and easily make implementation modifications as necessary.

With respect to the primary specific optimization proposals in the NPRM, ALTS supports rate center consolidation as having substantial potential to reduce demands on numbering resources. Because the factual predicates for rate center consolidation, more than other optimization methods, is unique to the geographic location of the rate centers, ALTS recommends that the Commission simply encourage the states to implement such consolidation, rather than adopting a requirement for rate center consolidation. With a couple of caveats, ALTS urges the Commission to adopt rules implementing number pooling. Although the trials that have been held do not give a precise picture of the efficacy of number pooling, it is clear that number pooling holds significant promise as an optimization measure. After some number portability problems have been solved, pooling should be rapidly implemented.

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**COMMENTS OF THE ASSOCIATION FOR**
**LOCAL TELECOMMUNICATIONS SERVICES**

The Association for Local Telecommunications Services ("ALTS") hereby files its Comments to the Notice of Proposed Rulemaking ("NPRM"), released June 2, 1999, in the above-referenced proceeding. ALTS is the leading national trade association representing facilities-based competitive local exchange carriers ("CLECs").

## I. INTRODUCTION

The members of ALTS are in full support of the number optimization goals that are at the heart of the NPRM. As new entrant local exchange carriers, ALTS members are substantially and adversely affected by the recent epidemic of area code exhaust, jeopardy, and lottery situations occurring throughout the nation. The impact on CLECs is profound and fundamental -- frequently in recent years CLECs have found themselves unable to implement basic market entry plans due to a lack of numbering resources in an area. In addition, CLECs share the concern of all industry players about the enormous cost and effort that would be associated with expansion of the 10-digit North American Numbering Plan ("NANP"). In response to these immediate and future impacts of number exhaust, ALTS members have been actively involved in

numerous federal, state and industry numbering efforts seeking to increase the efficiency with which telephone numbering resources are used. Although the demands of participating in these forums is often a strain for smaller carriers, ALTS members are committed to working with regulators and the industry to develop and implement solutions for effective number conservation and utilization.

The current number administration system is a legacy of the monopoly era in local exchange service. Incumbent service providers, in charge of managing the national numbering resource, created a numbering architecture under which the geographic scope of an individual central office code – 10,000 numbers – is limited to a small area for call rating and routing purposes, often the area served by a single central office switch. The requirement that not less than one full NXX code be assigned for each switch/rating area combination means that many more numbers must be assigned for exclusive use by carriers in specific areas than may actually be needed by their customers. While this architecture has been in place for more than half a century, the fundamental defect in the design of the NANP has only become evident with the advent of new services and arrival of new carriers in the marketplace. CLECs have no choice when entering a market but to obtain resources in each ILEC rating area in which it plans to offer service – often referred to as establishing a "footprint." Indeed, it has been estimated that 92% of all NXX codes assigned to the CLEC industry segment are initial codes in a rate area for footprint establishment.[1] Thus, the primary impact of CLECs on the national numbering resource is directly related to the pre-existing

[1] North American Numbering Plan Exhaust Study, submitted by NANPA Lockheed Martin CIS, April 22, 1999 (NANP Exhaust Study) at 3-13 and Exhibit 3-5.

inefficiencies in the number administration system, and not to CLEC number utilization practices.

The FCC has clear responsibility and jurisdictional authority, under Section 251(e)(1) of the Telecommunications Act of 1996[2] to identify and implement national policies to optimize numbering resources. The problems of number utilization are not local in nature, they are inherent to the national number administration system, and therefore can not be resolved as state or local issues. Devolution of the FCC's authority over number administration matters would not serve the public interest, but would delay and fragment implementation of number optimization solutions.

The NPRM identifies a number of administrative and technical measures that would promote more efficient allocation and use of the NANP resources. ALTS offers comments on these measures in the comments below. Although the goal of the industry and regulators alike should be to maximize number utilization efficiency in every way possible, the FCC should recognize that by far the greatest improvements will come from addressing the structural inefficiencies in the current number administration – that is, the inefficient allocation of numbers in blocks of 10,000, and the requirement for separate NXX codes in the multitude of rate centers. Solutions to these larger problems require a comprehensive FCC plan, such as the FCC established for local number portability ("LNP") implementation. Development of detailed administrative requirements, on the other hand, may be more appropriately handled by the industry working under the North American Numbering Council ("NANC").

[2] Pub. L. No. 104-104, 110 Stat. 56 (1996 Act)

## II. ADMINISTRATIVE MEASURES

### A. Rules vs. Guidelines

The FCC seeks comment on which of the optimization measures discussed in the NPRM should be adopted as FCC rules, and the suggested interplay between FCC rules and industry guidelines on number optimization.[3]

ALTS recommends that industry guidelines should ultimately be tied to FCC rules, to ensure compliance and provide a basis for enforcement. At the same time, the detailed implementation of requirements are better left to industry bodies, *e.g.*, NANC, that can more readily and easily make modifications as necessary. If all existing guidelines were codified as FCC rules, simple modifications necessary to accommodate a minor technical changes, for example, would be extremely time consuming and cumbersome under the Administrative Procedures Act.

Therefore, ALTS supports codification of basic, over-arching rules, but with underlying details remaining in NANC-approved guidelines.[4] For example, there could be a rule requiring all carriers to submit complete Central Office Code Utilization Survey ("COCUS") reports to the North American Numbering Plan Administrator ("NANPA"), but the details of how, when and where to submit the COCUS would be maintained in guidelines. There could be a rule requiring carriers to submit to audits, but the specifics of the audit requirements would not be detailed in the rule. In addition, enforcement

[3] NPRM at ¶ 35.

[4] ALTS notes that it is participating with NANC in the development of a specific recommendation on which elements of the current guidelines should be codified as rules. Although the recommendation will not be finalized until the August NANC meeting, the general framework discussed at the July meeting is consistent with what is being suggested by ALTS in these comments, and ALTS expects to endorse the NANC recommendation to the FCC.

rules should be established that clearly define consequences of failure to comply with the rules. (*See, e.g.,* discussion *infra* at Section II. F- Enforcement).

## B. Definitions of Categories of Usage

The FCC tentatively concluded that "a uniform set of definitions for the status of numbers should be established for purposes of implementing the proposals set forth" in the NPRM.[5] ALTS supports this tentative conclusion, and agrees that uniform definitions are essential to the collection of accurate data on number utilization and demand, which in turn will aid in the enforcement of rules and guidelines.

As a general comment, ALTS supports the industry efforts to arrive at common number status definitions. The Industry Numbering Committee ("INC") has reached Final Closure on definitions for the following categories of numbers: assigned number, ported out number, aging number, administrative number, employee/official number, location routing number, test number, temporary local directory number, wireless E911 ESRD/ESRK number, soft dial tone, dealer numbering pools, vacant number, TNs available for assignment, and TNs unavailable for assignment. ALTS supports these definitions, and believes their common use throughout the industry will help the industry, NANPA, pool administrator, and regulators communicate effectively with each other.

The NANC is still working to complete a definition, characteristics and guidelines for reserved numbers. This is perhaps the most important, and complicated, of the definitions because after the "assigned number" category, reserved numbers are potentially the largest category of telephone numbers unavailable for assignment. End users, particularly businesses, place a high value on being able to set aside sequential

blocks of numbers for their future growth, and service providers have tried to meet those needs by offering number reservations to their customers. The industry efforts so far have tried to balance the needs and desires of customers, on the one hand, with the overall need to support number optimization by preventing excessive inventories of telephone numbers from being stranded as "reserved." It appears that the draft industry proposal, which is nearing completion, will meet those dual goals. For example, as the proposal now stands, customers will continue to be allowed to reserve numbers for future use, but the quantity and duration of number reservations will be limited. In addition, carriers will be required to notify customers of number reservations, and reflect the reserved status and associated customer name in their number administration systems. NANC is scheduled to give final approval of the definition and guidelines for reserved numbers at the August NANC meeting. Unless major changes are made, ALTS recommends that the FCC accept the NANC definition and associated guidelines once they are finalized, rather than attempt to create a definition or guidelines in this NPRM process.

Once the new definition and guidelines for "reserved numbers" are in place, it will be essential to ensure that all carriers adhere to the new guidelines, *e.g.,* through enforcement provisions and audits. This is especially important with respect to number reservation practices because end users value the ability to reserve numbers. Therefore, a carrier that enforces reservation limits would be at a competitive disadvantage in attracting customers compared to a carrier that does not.

[5] NPRM at ¶39.

## C. Verification of Need for Numbers

The NPRM makes several observations and suggestions regarding measures that would tie allocation of new numbering resources to a showing of need by the carrier. With respect to an applicant's ability to obtain an initial code in a rate area, the FCC seeks comment on whether applicants should be required to provide additional information, such as "equipment they intend to use to provide service, the state of readiness of their network or switches, or their progress with their business plan, prior to obtaining initial codes."[6] ALTS strongly disagrees with the suggestion that there is a need for additional information from carriers seeking initial, "footprint" codes, and especially objects to the burdensome and intrusive type of information gathering suggested in the NPRM.

Initial codes for footprint establishment are primarily requested by CLECs, so this type of proposal would almost exclusively target CLECs, and in a way that would interfere with their ability to enter the market. At the same time, there would be no commensurate benefit to number optimization. The current Central Office Code Assignment Guidelines already require an applicant to certify that a code is needed, and to use that code within given timeframes.[7] Therefore, applicants already must consider their equipment, network and switch readiness, business plan, etc., in submitting an application for an initial code. A new entrant obtains initial codes based on the best information available as to when it will be ready to serve customers. Obviously, local exchange market entry is subject to variables and uncertainty, with numerous causes of delay existing outside a new entrant's control. But there is no evidence to suggest that

[6] NPRM at ¶ 58.

forcing a carrier to collect and share that information with the CO code administrator would measurably affect or reduce the number of initial codes assigned.

In those instances where a carrier obtaining an initial code is not able to use the code by the date predicted, one of two things will happen: 1) the code will be used at a slightly later date (extension requests are allowed but must include the reason for the delay and a new activation time commitment); or 2) the code will not be used at all and will be returned per existing guidelines.[8] In either instance, overall code utilization is not affected in any but a very temporary way.

Applications for growth codes – the primary category under which incumbent local exchange carriers ("ILECs") request codes – similarly involves a certification by the applicant carrier of a need for additional codes. Yet there is no suggestion in the NPRM that applications for growth codes be accompanied by business plans or network status information. Establishing such a requirement for an additional information showing only for initial codes would clearly place a disproportionate burden on CLECs *vis a vis* their ILEC competitors.

It is important to understand that the real impact of initial code applications on the numbering resource is *not* potential abuse of the process, but the quantity of codes it takes to establish a footprint in the first place. Number pooling and rate center consolidation measures are the potential answers to this underlying problem, not erection of a burdensome application process for initial codes. As explained above,

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[7] *See* Central Office Code Assignment (NXX) Guidelines, INC 95-0407-008 (rev. Apr. 26, 1999) ("CO Code Guidelines") at §§ 4.1 and 6.3.3.
[8] *Id.* at §§ 6.3.3 and 8.1.

CLECs did not create the system that requires large numbers of codes to establish a footprint, and they should not be penalized now for this inefficient legacy.

The NPRM also seeks comment "on whether a percentage utilization threshold should be adopted, and if so, on the appropriate level for that threshold."[9] ALTS supports the goal of carriers achieving high utilization rates on mature NXX codes, and understands that, theoretically, there are potential gains that could be derived from enforcement of utilization thresholds. However, because of numerous practical difficulties and adverse competitive impacts, ALTS does not recommend adopting utilization thresholds at this time. Nevertheless, if acceptable number utilization levels are not achieved by the industry after other, more promising, number conservation measures proposed in the NPRM and discussed *herein* are implemented, then ALTS would not object to consideration of utilization thresholds in the future.

There are considerable practical difficulties with using utilization thresholds, or "fill rates," to justify the need for growth codes. Fill rates have little relationship to the date at which a carrier could expect to need additional numbers. Requiring a carrier to meet a particular fill rate may in some cases prevent a carrier from obtaining a growth code before its current code exhausts, and in other cases allow a carrier to obtain a growth code even where a new code is not justified by its business forecast.

The number and range of questions in the NPRM about how and at what level to establish utilization threshold underscores the inherent problems with setting a fixed, rigid rate in a greatly varied and dynamic environment.[10] For example, how can different market sizes and characteristics be factored into the decision on what fill rate is

[9] NPRM at ¶ 63.
[10] *See, e.g.*, NPRM at ¶¶ 63-68

appropriate? How can differences among services and service provider types be taken into account? How should fill rates for "mature" NXXs (and "mature" carriers) be distinguished from fill rates for new NXXs (and new carriers)? These are simply a few of the complex questions that the industry has wrestled with – unsuccessfully – in trying to come up with a fill rate standard that is practical to administer and fair to all carriers.

Months-to-exhaust, although not a perfect measure of when a carrier will need a growth code, is tied to actual carrier business forecasts and therefore can take into account historical activation rates, seasonal fluctuations, planned promotions, introduction of new services and rate plans, and other relevant factors. Months-to-exhaust calculations also allow a carrier to take into account the differences in likely exhaust dates between pooling and non-pooling areas. For example, if a 75% utilization threshold were established, in a non-pooling environment that would mean carrier would have 7,500 numbers in its existing NXX in use and 2,500 numbers available. In a thousands block pooling environment, though, the carrier would have 750 numbers in its existing block in use and only 250 numbers available. Where months-to-exhaust is used to justify need, the carrier in both cases would be able to factor in variables -- the actual size of its remaining number inventory, forecasted business plans, and length of time to obtain a new code or block -- in justifying its code request.

In addition to these practical difficulties, requiring utilization thresholds could have an especially disproportionate impact on CLECs, because they experience uneven growth in initial stages, and have limited inventories in a given rate center *vis a vis* their

incumbent competitors. The NPRM correctly recognizes the potential disproportionate impact on new entrants:

> Imposing the same utilization requirements on carriers with a small market presence as on those with a much larger presence may discourage market entry and competition, as well as diminish a smaller or newer carrier's ability to react to market demands.[11]

But having recognized the impact, the FCC suggests different treatment only for carriers with few (*e.g.*, 5-10 NXXs) in the NPA. This limitation ignores the fact that new entrants often need 30-40 NXXs just to establish initial service. Similarly, in a pooling environment, CLECs could need 30-40 thousands-blocks. The proposed limitation would thus deny the special treatment recognized as necessary to most new entrants.[12]

Establishment of utilization thresholds is premature at this time because number pooling and other optimization measures, such as rate center consolidation, can be expected to result in significantly improved utilization rates, especially among new entrant carriers. It is not clear at this point that establishing utilization threshold requirements for growth codes will be necessary, in addition to number pooling and other measures, or whether the benefits would compensate for the problems associated with utilization threshold requirements.

ALTS recommends instead that industry utilization rates be monitored through COCUS reporting and auditing processes, to determine whether utilization rates are improving for the industry as a whole and for individual carriers, as number pooling and other optimization measures are implemented. After a period of evaluation (12-18

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[11] *Id.* at ¶ 68.

[12] Although ALTS does not support establishment of utilization threshold at this time, in the event such thresholds are established in this proceeding, ALTS urges the FCC to recognize the disproportionate impact of utilization thresholds on new entrant carriers, and define such carriers not according to the number of NXXs they hold in an NPA, but instead based on length of active presence in the market.

months after pooling implementation), the FCC can determine whether establishment of utilization threshold requirements to justify need for growth codes is warranted. If the industry has failed to sufficiently improve number utilization, and establishment of utilization requirements is judged necessary, requirements should include the following characteristics:

a) Utilization thresholds must be calculated on a rate center basis, and the benchmark should be based on the utilization rate of all of a carrier's NXXs in the rate area;
b) Utilization thresholds should apply only to growth code requests in a rate area; and
c) Utilization thresholds must differentiate between new entrant and mature carriers.

## D. Reporting/Record-keeping Requirements

The FCC finds that the need for better and more timely data on number usage and forecasted demand has grown much more acute as competition in the local exchange market has developed and the demand for numbers has rapidly increased.[13] As a result, the FCC tentatively concludes that it "should mandate that all users of numbering resources supply forecast and utilization data to the NANPA," and there must be established "a more extensive, detailed and uniform reporting mechanism that will improve numbering and forecasting on a nationwide basis."[14] ALTS supports these tentative conclusions.

In particular, ALTS supports the NANC recommendation for a replacement of the COCUS reporting model,[15] which includes increased and varying levels of frequency,

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[13] *Id.* at ¶ 70.
[14] *Id.* at ¶ 73.

[15] NANC Recommendation to the Federal Communications Commission Concerning the Replacement of the Central Office Code Utilization Survey (COCUS) Based Upon the Recommendation of the Numbering

granularity and types of reporting categories depending on type of numbering area (pooling, non-pooling but within exhaust window, and non-pooling outside of exhaust window). The FCC should endorse these industry efforts because they meet the stated goal of establishing a more extensive, detailed and uniform reporting mechanism. At the same time, the FCC should articulate the principle that, as the details of the recommendation are fleshed out, COCUS reporting requirements should not be presumed to be based on incumbent data collection and reporting practices.

The NANC COCUS recommendation included a note that the underlying NRO working group recommendation advocated that utilization reporting be on an aggregate basis of "telephone numbers unavailable."[16] Although a majority of the NANC membership, including ALTS, favored a recommendation that utilization be reported in more disaggregated categories, the NANC did not reach a consensus on this issue. ALTS supports number utilization reporting at disaggregated levels, including separate reporting of utilization in administrative, aging, dealer numbering pool, ported-out, reserved, and assigned categories. Simply reporting numbers as "unavailable" will not provide NANPA, regulators, or industry with sufficient detail on number utilization to fully understand how numbers are being used, or how utilization may affect projected exhaust.

The FCC also offered a tentative conclusion that carriers should report COCUS utilization and forecasting data on a quarterly basis, rather than on the current annual reporting cycle.[17] ALTS opposes a requirement for COCUS reporting on a quarterly

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Resource Optimization Working Group (NRO WG), forwarded June 30, 1999, to Yog Varma, Deputy Chief, Common Carrier Bureau ("NANC COCUS recommendation").

[16] *Id.* at footnote 1.

[17] NPRM at ¶ 77.

basis. Increasing the current COCUS from once a year to four times a year, at the same time the level of detail is being increased significantly (especially if reporting is done at the more granular level as ALTS recommends), would represent an extreme step without any assurance that the added cost and effort would be of any value. The NANC recommendation for semi-annual reporting in most places (annual only where there is no pooling and no projection of imminent exhaust) will sufficiently capture necessary information, and permit time for analysis, without excessive cost and effort by carriers and NANPA. Of course, if semi-annual COCUS reporting is found to be insufficient, the FCC and industry can revisit the issue and increase the reporting frequency at a later date.

## E. Audits

The NPRM proposes that a comprehensive audit program be established that verifies carrier compliance with federal rules and industry numbering guidelines.[18] ALTS supports the proposal to establish an auditing process, to ensure that rules and guidelines are uniformly adhered to throughout the industry. In particular, ALTS supports the current industry work underway to develop a comprehensive auditing framework, requirements document and Request For Proposal to identify a third-party auditor for both NANPA and service providers.

The NPRM identifies three kinds of audits: for cause, regularly scheduled, and random. ALTS understands that, to some extent, the NANPA is already performing "for cause" audits as part of its function as CO Code administrator. For example, NANPA evaluates information submitted by carriers, identifies potentially inaccurate data or

forecasts, and requests additional clarifying/supporting documentation. ALTS supports continuation of current "for cause" audits of this type.

Regarding "regularly scheduled" and "random" audits, it is not clear why both types of audits would be necessary. Given that audits are likely to be costly and time consuming for the industry, ALTS would expect that the comprehensive audit framework will seek to balance the need to verify carrier compliance with the cost and disruptive impacts on the industry. However, in no event should random audits be used to target "new carriers that appear to be seeking a large quantity of numbers," as the NPRM suggests.[19] It is patently unfair – and unnecessary -- to plan to target a particular industry segment in the audit process. Such use of random audits would put one industry segment – CLECs – at a competitive disadvantage *vis a vis* other carriers that did not have to bear the expense and disruption of unjustified audits. In addition, it would constitute "audit overkill." If a carrier had already been subjected to a rigorous regularly scheduled audit and found to be in compliance, an additional random audit probably would provide no additional value for the additional expense. Finally, allowing an auditor to target particular industry segments leaves too much subjective power in the hands of the auditor.

## F. Enforcement

The FCC tentatively concludes that "the NANPA should be empowered to withhold NXX codes as a sanction for violation of the CO Code Guidelines, especially where the violation involves failure or refusal to supply accurate and complete utilization

[18] *Id.* at ¶ 83.
[19] *Id.* at ¶ 87.

or forecast data."[20] ALTS supports this tentative conclusion, but only in those circumstances where the decision to effect the sanction requires an objective evaluation by NANPA, and timely due process is provided for carriers that dispute the NANPA determination.

Beyond that delegation to the NANPA, the FCC is the appropriate enforcement body for more subjective evaluations. Unlike the states, the FCC has the authority under Section 251(e)(1) of the 1996 Act, the expertise and perspective to consider the impact of decisions on national numbering policies, and is free from the pressures of local political bodies that may have no broad understanding of national numbering issues.

## G. Reclamation of NXX Blocks

The FCC tentatively concludes that the current activation and reclamation requirements and timeframes in the CO Code Guidelines should be modified in several ways to encourage more efficient use of NXX codes."[21] The NPRM specifically suggests modifying the current reclamation provisions by requiring the NANPA to initiate NXX code reclamation within 60 days of expiration of the assignee's applicable activation deadline.[22]

ALTS would support some reduction in the timeframe before NXX code reclamation is initiated, but believes that reclamation within 60 days of expiration of the assignee's applicable activation deadline does not provide sufficient flexibility to carriers

[20] *Id.* at ¶ 92.

[21] *Id.* at ¶ 98.
[22] *Id.* at ¶ 99.

to accommodate unavoidable delays in activating NXX codes. As explained above in Section II. C, it is extremely difficult for a new entrant to determine with precision when it will need NXX codes. The current guidelines direct a carrier to return a CO code to the administrator if it was not activated within 6 months (180 days) after the initially published effective date.[23] If the timeframe is to be reduced, ALTS recommends that NXX code reclamation not be initiated any sooner than 120 days after the applicable activation date. Retaining at least that degree of flexibility will more effectively allow carriers to meet their numbering needs in an unpredictable environment, without compromising number optimization efforts.

The Commission also suggests "reducing the amount of time during which a carrier may reserve an NXX code from 18 months to three months, and, correspondingly, to reduce the period of potential extension of that reservation from six months to 30 days."[24] ALTS objects to such a drastic reduction in the amount of time for code reservations, especially for initial codes. Given the significant amount of uncertainty new entrants face in planning market entry and growth, the ability to reserve the necessary resources, and extend the reservation if necessary, so that the resources are available when needed, is an important step toward reducing some of that uncertainty. The current CO Code Guidelines already contain special reservations provisions for jeopardy NPAs. Holders of reservations are asked to voluntarily return reserved codes, and reservations with planned activation dates prior to the NPA relief date will not be honored if doing so would preclude the assignment of an NXX code for which a certified

[23] CO Code Guidelines at § 6.3.3.
[24] *Id.*

request has been processed.[25] Indeed, ALTS is unaware that reservation of NXX codes has ever been cited as a cause or substantial contributor to NPA exhaust. Absent evidence that the current number reservation timeframes, especially for initial codes, is a contributing in any substantial way to NPA exhaust, ALTS recommends either no reduction in reservation timeframes, or a more moderate reduction than that proposed in the NPRM.[26]

The FCC tentatively concludes that it should "delegate additional authority to state public utility commissions to order NXX block reclamation in accordance with the CO Code Guidelines."[27] The FCC further seeks comment on whether the NANPA should be directed to refer questions or disputes about code activation, deadline extensions, or reclamation directly to state commissions for resolution, rather than to the INC.[28]

ALTS agrees that states can play an important role in working with the NANPA to ensure that carriers adhere to the numbering guidelines, as ALTS explained in recent comments filed in response to state petitions for additional delegated numbering authority.[29] ALTS believes the state role should be to work with the NANPA in monitoring carrier number utilization data, identifying improperly held codes, and ensuring that carriers are adhering to the guidelines. In its replies to the state petitions,

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[25] CO Code Guidelines at § 9.4.D.
[26] For example, the reservation period could be set at one year, with a potential for a three month extension of the reservation.
[27] NPRM at ¶ 100.

[28] *Id.*
[29] *See* Reply Comments of the Association for Local Telecommunications Services, In the Matter of Maine Public Utility Commission's Petition for Delegated Authority to Implement Number Conservation Measures, NSD File No. L-99-27, filed May 17, 1999; Reply Comments of the Association for Local Telecommunications Services, In the Matter of Florida Public Service Commission Petition for Additional Authority to Implement Number Conservation Measures, NSD File No. L-99-27, filed May 28, 1999

ALTS cited the example of Colorado, where the Colorado Public Utility Commission ("Colorado PUC"), working with the NANPA, established a number of practices to improve adherence to the guidelines, including NANPA verification with the Colorado PUC of carrier certification prior to making code assignments. The Colorado PUC's actions have already resulted in the return of 75 CO codes.[30]

Beyond this role, though, ALTS does not believe it is necessary or efficient to give additional reclamation authority to states. Continuity and uniformity are essential foundations of the national numbering system. The NANPA already has (or should have clarified if necessary) the authority to initiate reclamation of NXXs in accordance with the guidelines. It is neither necessary nor desirable to take that authority away from the NANPA and substitute individual states in that role. Carriers could face 50 different bodies with 50 different interpretations of the guidelines, with no way to ensure consistent outcomes or guarantee timely resolution of disputes with state numbering resolutions. In the event that the NANPA has questions or disputes about code activation, deadline extensions or reclamation, those matters should be referred to the NANC (in cases of disputes with general applicability to multiple carriers) or the INC (in cases of specific carrier disputes).

ALTS urges the FCC to stay focused on addressing the root causes of area code and NANP exhaust – the inefficient allocation of numbers in blocks of 10,000, and rate

[30] ALTS is aware that many states have also exercised a number of options to improve code utilization in their states, without the need for additional delegation of authority or establishment of state-specific number administration procedures. These options include: rate center consolidation, voluntary NXX code give back, expanded local calling area ("ELCA") for wireless carriers, approval of inconsistent rate centers for CLECs, and voluntary sequential number assignment and virtual number pooling trials. Thus, there already exist numerous options that allow states to effect number optimization, without undermining the NANPA or FCC role in executing numbering policies and guidelines.

center demands -- rather than creating unnecessary barriers to getting and keeping needed numbering resources.

### H. Cost Elements and Cost Recovery

The NPRM tentatively concludes that "the costs of the administrative solutions proposed above should be allocated and recovered through the existing NANPA fund formula."[31] It is unclear whether the costs referred to in this tentative conclusion include only the increased third party administration costs, or also the increased carrier costs to implement administrative solutions (*e.g.*, increased costs to provide more frequent and detailed COCUS reporting). ALTS supports the tentative conclusion with respect to third party administration costs, because the proposals involve changes and improvements in current NANPA oversight and management functions, and therefore should be borne proportionately by all carriers using numbering resources. ALTS would object to including carrier costs in the NANPA fund formula because it would be inappropriate and economically inefficient to recover any portion of carrier number administration costs through an industry cost pool like the NANPA fund.

## III. OTHER NUMBERING OPTIMIZATION SOLUTIONS

### A. Rate Center Consolidation

The NPRM recommends that rate center consolidation ("RCC") be implemented to the greatest extent possible, and seeks comment on several issues relating to RCC

[31] NPRM at ¶ 103.

implementation, timing, and combination with other number conservation measures.[32] ALTS supports RCC as having substantial potential to reduce demands on the numbering resource, and supports review of RCC impacts and potential in all areas. As the FCC is aware, in some areas RCC may not be possible or practical depending on disruptive impacts to local calling scopes. ALTS recommends that states be encouraged to consider RCC in any and all NPA areas in which area code exhaust is or may be any issue. However, because the issues surrounding RCC are unique in each local calling area, ALTS does not recommend any mandate or requirement for any particular degree of RCC. Instead, all decisions as to whether and how to implement RCC should be left to the states.

The NPRM specifically requests comment on "whether and how the FCC or state commissions can create incentives to encourage incumbent local exchange carriers (ILECs) voluntarily to combine rate centers..."[33] This question wrongly suggests that decisions on the most appropriate rate center configuration should be left unilaterally to ILECs. Although existing rate center arrangements were initially a product solely of ILEC design, now many carriers have necessarily adopted those rate centers. Any changes to the rate center configuration in an area must be accomplished with the participation of *all* affected carriers, and must take into account impacts on *all* carriers and customers, not just ILECs.

The FCC also seeks comment on the relationship between RCC and other number optimization measures, particularly number pooling, and specifically asks if the FCC should grant authority to implement number pooling only after they have

[32] *Id.* at ¶¶ 116-121.

undertaken RCC.[34] Both number pooling and RCC are important number optimization measures, and each one should be undertaken wherever it would be practical and effective. Not every place that is ripe for pooling can accommodate RCC, and vice versa. Attempts to force RCC as a precursor to or coincident with pooling may simply delay the implementation of number pooling. Nevertheless, in areas in which both RCC and number pooling are feasible, implementation of RCC prior to number pooling will be less complex and expensive if the number pools are established for fewer rate centers. Therefore, where possible, states and carriers should be encouraged to initiate a review of RCC feasibility prior to number pooling.

As part of its review of the merits of RCC, the FCC should recognize the substantial competitive and number utilization impacts that occur when rate center boundaries are split by area code boundaries after RCC has been implemented. These impacts were recently described in detail by ALTS and several other carriers in a pending emergency petition regarding the Phoenix area code relief plan,[35] and are discussed in greater detail *infra* at III.G – Area Code Relief. In consideration of these issues, the FCC should establish a principle for RCC that, once rate centers have been consolidated, future area code boundaries may not split the new, larger rate center. By establishing a clear principle now, the FCC will be aiding states in their rate center consolidation decisions, by clearly identifying an impact to consider when deciding the best manner to consolidate rate centers.

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[33] *Id.* at ¶ 118.
[34] *Id.* at ¶ 120.

## B. Number Pooling Roll-out and Implementation Timeframes

The FCC tentatively concludes that "implementing thousands-block pooling in major markets is an important numbering resource optimization strategy that is essential to extending the life of the NANP."[36] ALTS supports this tentative conclusion. Although the number pooling trials that have been held in Illinois and New York do not give a precise picture of the efficacy of number pooling, it appears to hold substantial promise as a means of slowing the exhaust of the area codes and the NANP. ALTS members will undoubtedly incur significant cost and expend considerable effort to implement number pooling – many members already have through their participation in Illinois and New York number pooling trials. However, ALTS members are committed to implementing the type of change that gets at the root inefficiencies of the current number administration system. [37]

The FCC also tentatively concludes that any deployment schedule for thousands-blocks pooling should initially be tied to the largest 100 Metropolitan Statistical Areas ("MSAs").[38] ALTS supports this tentative conclusion, and recommends that number pooling be rolled-out consistently across the country according to a single set of guidelines and a comprehensive FCC roll-out plan.

Specifically, ALTS recommends that the FCC should establish a presumption for number pooling implementation, by all LNP-capable carriers, in any LRN-capable area, *i.e.*, top 100 MSA areas and areas where LNP is implemented in response to *bona fide*

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[35] *See*, Emergency Joint Petition of ALTS, ELI, GST, MCI WorldCom and Winstar for Suspension of Phoenix Area Code Relief Plan or, in the Alternative, Other Relief, CC Docket No. 96-98, filed April 1, 1999 ("Emergency Joint Petition").
[36] NPRM at ¶ 138.
[37] The costs of number pooling have not yet been fully identified. A final decision on number pooling should of course take into consideration the magnitude of the cost impact on the industry.
[38] *Id.* at ¶ 144.

request. This will effectively match up number pooling with areas that have the capability and the need for pooling. The paradigm should be one of opting out of, rather than opting into, pooling. State commissions or carriers should be able to petition the FCC to seek a waiver of pooling in an MSA or LNP area, based on such factors as limited number of potential pooling carriers in the MSA, etc.[39] However, the fact that exhaust is not imminent in an area should not be the basis for a waiver. It is widely accepted that implementation of number pooling is most effective in "new" NPAs, because of the availability of clean thousands-blocks to "stock" the pools.[40] Moreover, according to the NANP Exhaust Study, the greatest impact from number pooling in delaying the exhaust of the NANP comes from widespread number pooling deployment and participation.[41] Yet number pooling can also provide significant number optimization benefits in NPAs where there are few remaining resources,[42] and putting number pooling in place in the old NPA simply means that the benefits of pooling will be available immediately once a new area code is added.

The FCC should establish, with industry input, a comprehensive roll-out plan for number pooling in the top 100 MSAs. Number pooling implementation should begin as soon as the major tasks to implement number pooling are complete – hopefully by 1Q2000 -- and complete within 12 months. The actual roll-out schedule should be determined by NANC work effort and submitted to the FCC within 3 months of an FCC order in this proceeding. The roll-out schedule must take into account the availability of

[39] Pooling waivers should be area-wide and not carrier-specific; in any area that meets the criteria for number pooling, pooling should be mandatory for all LNP-capable carriers providing service in that area.
[40] *See, e.g.*, NPRM at ¶ 150.
[41] *See, e.g.*, NANP Exhaust Study, Section 4.
[42] The area code relief date for the 847 area code in Illinois has already been extended several times, even though the area code was near exhaust at the time number pooling was implemented.

NPAC Release 3.0 and pool administration, and resolution of "slow horse" problems in a given area,[43] and should be staggered along the lines of LNP implementation.

### C. Number Pooling Technical implementation Issues

The FCC asks for comment "on whether the NANPA should serve as thousands-block Pooling Administrator or whether the Commission should seek competitive bids in response to a request for proposal or requirements, as it did with respect to NANP administration."[44] The FCC tentatively concludes that it should ask the NANC for a recommendation regarding what entity should serve as the Pooling Administrator.[45]

As a general comment, ALTS members believe that a competitive environment in nationwide NANP and portability administration is healthier for the industry and ultimately consumers. As the current NANPA and NPAC contracts expire, ALTS will advocate careful consideration of the pros and cons of having total hegemony when awarding new NANP and portability administration contracts.

Notwithstanding those comments, ALTS supports the industry process under NANC that is currently evaluating the advisability and consequences of adding pool administration to the NANPA's present duties.

### D. Carrier Choice of Numbering Optimization Options

The FCC seeks comment on whether the FCC should "simply establish thresholds for efficient use of numbering resources, but leave the choice of method for

[43] The problems with service provider Service Control Point ("SCP") download rates, known as the "slow horse" problem, must be resolved prior to pooling implementation, so that LNP processes can accommodate the substantial increases in porting activity associated with pooling.
[44] NPRM at ¶ 184.

achieving these thresholds to individual carriers."[46] ALTS strongly disagrees with this proposal.

Allowing each carrier to choose its own number optimization strategy will completely undermine the effectiveness of nationwide number optimization efforts. The root causes of poor number utilization are structural – inefficient allocation in blocks of 10,000 and rate center demands. It takes FCC action – not carrier choice – to fix these structural problems. Pooling and RCC, which address major structural problems, will be ineffective if all carriers don't participate. For example, if only three out of twelve carriers in an MSA participate in pooling, and only two out of twelve adopt consolidated rate centers, little number optimization benefit will accrue overall.

In addition, as described above in II.C – Verification of Need for Numbers, it is extremely difficult to establish a utilization rate or rates that would be competitively neutral to all participants in all market areas. Compounding the problem, there are substantial difficulties in monitoring and measuring carrier utilization rates. For example, today some industry segments and individual ILECs claim extremely high utilization rates that, if taken at face value, would excuse large portions of the industry from implementing any number optimization measures. Yet the NANP Exhaust Study and other state-collected utilization data suggest much lower utilization by all industry segments and large ILECs.

ALTS urges the FCC to assert its jurisdiction over numbering matters and not abdicate the responsibility to individual carriers. To do otherwise would be akin to telling carriers after passage of the 1996 Act that they can choose any means to

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[45] *Id.*
[46] *Id.* at ¶ 216.

establish fair competition, without mandating the basic tools of interconnection, LNP, and network element unbundling.

## IV. PRICING OPTIONS

The NPRM contains a suggestion for an alternative approach to improving the allocation and utilization of numbering whereby carriers would be required to pay for the numbering resources that they request or receive. The FCC seeks comment on "both the theoretical and practical issues related to using pricing to allocate optimally numbering resources."[47] ALTS believes that instituting a pricing scheme for numbering resource allocation would be an administrative and competitive nightmare.

From a competitive perspective, charging carriers for numbers, and especially instituting a market-based approach where the price of numbers would rise as exhaust nears, would put well capitalized companies with a good cash flow at a significantly advantageous position *vis a vis* smaller, less capitalized competitors.

The FCC acknowledges that establishing a cost for numbers "may pose a particular challenge for new entrants that require numbering resources simply to establish a presence in a market," but suggests that "so long as there are no distortions in the market, the pricing of numbering resources should be competitively neutral."[48] However, the current highly inefficient number administration system, that requires new entrants to acquire large amounts of numbers to establish a footprint regardless of demand or technical need for so many numbers, is a tremendous "market distortion,"

[47] *Id.* at ¶ 225.
[48] *Id.* at ¶ 230.

that would make establishment of a price-based allocation scheme for numbers a significant and uneconomic barrier to entry,

At a minimum, before considering a price-based allocation scheme, the FCC should focus industry efforts on reducing or eliminating the structural inefficiencies in the current number administration system. Once that has been accomplished, the FCC can consider whether a pricing scheme is desirable or even necessary.

## V. AREA CODE RELIEF

The FCC seeks comment on what action the Commission can take to assist states in implementing area code relief in a manner that is consistent with number optimization measures that may be adopted in this proceeding.[49]

ALTS does not support any area code relief option as being better from a number optimization standpoint. Specific circumstances and considerations in each relief area should determine which relief option – split or overlay -- would best suit the area. The FCC has delegated to the states the authority to implement appropriate forms of area code relief, but subject to the Commission's guidelines for number administration. This approach, of allowing states to choose the best area code relief option but according to Commission guidelines, is still the best approach. In light of the need for greater number optimization, however, the FCC needs to amend its guidelines to ensure that numbering relief options do not exacerbate exhaust of the NANP. In addition, the Commission should reiterate and emphasize its existing guideline that a number relief

[49] *Id.* at ¶ 241.

option not unduly favor or disadvantage a particular industry segment or group of customers.

With regard to the need to ensure that numbering relief options do not exacerbate exhaust of the NANP, the FCC needs to establish the additional condition for area code splits that rate center boundaries can not be split by a new area code split line. In recent months, 3 states – Arizona, Minnesota and New York – have adopted geographic splits that partition rate areas. In all three situations, the result is that some customers would have been forced to suffer the added hardship of a 10-digit number change (i.e., not merely an area code change). In the case of the Arizona relief action, only CLEC customers would have been forced to take 10-digit number changes. The only alternative to such an outcome was to allow the otherwise-unnecessary assignment of duplicate NXX codes to carriers in the new area codes so that the affected customers could keep their existing 7-digit local numbers in the new area codes. The situation presents a Hobson's choice – either a particular industry segment or group of consumers is disadvantaged (in violation of the Commission's existing guidelines), or NXX codes are uselessly wasted (in violation of the spirit of Commission and industry efforts to reduce NANP exhaust). It is unknown exactly how many NXXs will be wasted in these three states,[50] but the numbers will undoubtedly soar if other states are allowed to partition rate areas.

The FCC has indicated a strong desire to promote RCC, so it should recognize that when rate centers are partitioned by area code splits, there is, in effect, the reverse

[50] Over 100 duplicated NXX codes are predicted by the NANPA in Minnesota alone, and that doesn't even account for the fact that, following the split, every new carrier seeking to establish a footprint will require two or three times as many NXX codes as it would have prior to the rate center boundary split.

of rate center consolidation. Therefore, to prevent this misuse of NXX codes, or the alternative of forcing some customers to undergo a 10-digit number change, the Commission should amend its area code relief guidelines to prevent the partitioning of rate areas in area code relief plans

The NPRM also seeks comment on whether the 10-digit dialing requirement should be retained.[51] ALTS strongly opposes elimination of this requirement. The requirement for 10-digit dialing is essential to ensuring that an overlay does not unduly disadvantage CLECs and their customers. ALTS recognizes that some consumers initially may be uncomfortable with having to dial 10-digits to complete calls. ALTS also believes, however, that those temporary concerns are outweighed by the long term anti-competitive effects that accompany overlays without 10-digit dialing requirements. The inconvenience associated with dialing additional digits is not as significant as the ill effects that consumers will encounter if new entrants are forced to compete in a market where their customers must dial more digits than their incumbents competitors' customers to complete calls. An overlay without 10-digit dialing makes it significantly more difficult to market new services, even if a new entrant offers lower prices and better quality services than the incumbent. As a result, without retention of the 10-digit dialing requirement, consumers will be denied meaningful choice in local markets, and the promise of the 1996 Act will be denied them.

The rule setting forth the 10-digit dialing requirement was established after careful consideration of arguments made by several industry participants on the anti-competitive effects on new entrants, as well as the adverse effects to the public and local competition in general, of area code overlays without mandatory 10-digit dialing.

In so doing, the Commission concluded that the rule is necessary to avoid those anti-competitive effects. Specifically, the Commission stated that:

> competing exchange service providers, most of which will be new entrants to the market, would have to assign to their customers numbers in the new area code, which would require those customers to dial 10-digits much more often than the incumbent's customers, and would require people calling the competing exchange provider's customer to dial 10-digits when they would have to dial 7-digits for most of their other calls.[52]

The Commission's conclusion that 10-digit dialing is needed to encourage local exchange competition and ensure that all providers are allowed to compete on a level playing field is just as relevant today as it was when that pronouncement was made. The Commission should thus refrain from eliminating or altering the 10-digit dialing requirement with overlays.

## VI. CONCLUSION

ALTS recommends that the Commission move forward quickly on number optimization measures as discussed *herein*. The FCC has clear jurisdictional authority to identify and implement comprehensive, national policies to optimize numbering

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[51] NPRM at ¶ 252.

[52] *Implementation of the Local Competition Provisions of the Telecommunications Act of 1996*, Second Report and Order and Memorandum Opinion and Order, FCC 96-333 (rel. Aug. 8, 1996), ¶ 287 (Second Report and Order).

resources, and doing so will benefit the public interest and enhance competition in the local exchange market. The members of ALTS stand ready to aid the Commission in any way they can to implement reasonable numbering optimization measures.

Respectfully submitted,

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Certificate of Service

I hereby certify that on this ~~30th~~ 2nd day of ~~July~~ Aug., 1999, copies of the foregoing Comments of the Association for Local Telecommunications Services were served via first class mail, postage prepaid, or by hand, to the parties listed below.

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